

Legal Services Corporation

§ 1607.6

part and with the recipient's bylaws and applicable State law.

(g) Recipients shall make reasonable and good faith efforts to insure that governing body vacancies are filled as promptly as possible.

(h) Recipients may recommend candidates for governing body membership to the appropriate bar associations and other appointing groups and should consult with the appointing organizations to insure that:

(1) Appointees meet the criteria for board membership set out in this part, including financial eligibility for persons appointed as eligible clients, bar admittance requirements for attorney board members, and the general requirements that all members be supportive of the purposes of the Act and have an interest in and knowledge of the delivery of legal services to the poor;

(2) The particular categories of board membership and the board as a whole meet the diversity requirements described in §§1607.3(b)(3), 1607.3(c) and 1607.3(d);

(3) Appointees do not have actual and significant individual or institutional conflicts of interest with the recipient or the recipient's client community that could reasonably be expected to influence their ability to exercise independent judgment as members of the recipient's governing body.

§ 1607.4 Functions of a governing body.

(a) A governing body shall have at least four meetings a year. A recipient shall give timely and reasonable prior public notice of all meetings, and all meetings shall be public except for those concerned with matters properly discussed in executive session in accordance with written policies adopted by the recipient's governing body.

(b) In addition to other powers and responsibilities that may be provided for by State law, a governing body shall establish and enforce broad policies governing the operation of a recipient, but neither the governing body nor any member thereof shall interfere with any attorney's professional responsibilities to a client or obligations as a member of the profession or inter-

fere with the conduct of any ongoing representation.

(c) A governing body shall adopt bylaws which are consistent with State law and the requirements of this part. Recipients shall submit a copy of such bylaws to the Corporation and shall give the Corporation notice of any changes in such bylaws within a reasonable time after the change is made.

§ 1607.5 Compensation.

(a) While serving on the governing body of a recipient, no attorney member shall receive compensation from that recipient, but any member may receive a reasonable per diem expense payment or reimbursement for actual expenses for normal travel and other reasonable out-of-pocket expenses in accordance with written policies adopted by the recipient.

(b) Pursuant to a waiver granted under §1607.6(b)(1), a recipient may adopt policies that would permit partners or associates of attorney members to participate in any compensated private attorney involvement activities supported by the recipient.

(c) A recipient may adopt policies that permit attorney members, subject to terms and conditions applicable to other attorneys in the service area:

(1) To accept referrals of fee-generating cases under part 1609 of these regulations;

(2) To participate in any uncompensated private attorney involvement activities supported by the recipient;

(3) To seek and accept attorneys' fees awarded by a court or administrative body or included in a settlement in cases undertaken pursuant to §§1607.5 (c) (1) and (2); and

(4) To receive reimbursement from the recipient for out-of-pocket expenses incurred by the attorney member as part of the activities undertaken pursuant to §1607.5(c)(2).

[59 FR 65254, Dec. 19, 1994, as amended at 60 FR 2330, Jan. 9, 1995]

§ 1607.6 Waiver.

(a) Upon application, the president shall waive the requirements of this part to permit a recipient that was funded under §222(a)(3) of the Economic Opportunity Act of 1964 and, on July 25, 1974, had a majority of persons who

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were not attorneys on its governing body, to continue such nonattorney majority.

(b) Upon application, the president may waive any of the requirements of this part which are not mandated by applicable law if a recipient demonstrates that it cannot comply with them because of: (1) The nature of the population, legal community or area served; or (2) Special circumstances, including but not limited to, conflicting requirements of the recipient's other major funding source(s) or State law.

(c) A recipient seeking a waiver under §1607.6(b)(1) shall demonstrate that it has made diligent efforts to comply with the requirements of this part.

(d) As a condition of granting a waiver under §1607.6(b)(2) of any of the requirements imposed upon governing bodies by §1607.3, the president shall require that a recipient have a policy body with a membership composed and appointed in the manner prescribed by §1607.3. Such policy body shall be subject to the meeting requirements of §1607.4(a) and its attorney members shall be subject to the restrictions on compensation contained in §1607.5. The policy body shall have such specific powers and responsibilities as the President determines are necessary to enable it to formulate and enforce policy with respect to the services provided under the recipient's LSC grant or contract.

PART 1608—PROHIBITED POLITICAL ACTIVITIES

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AUTHORITY: Secs. 1001(5), 1005(b)(2), 1006(b)(3), 1006(b)(5)(B), 1006(d)(3), 1006 (d)(4), 1006(e)(1), 1006(e)(2), 1007(a)(6), 1007(b)(2); 42 U.S.C. 2996(5), 2996d(b)(2), 2996e(b)(3),

2996e(b)(5)(B), 2996e(d)(3), 2996e(d)(4), 2996e(e)(1), 2996e(e)(2), 2996f(a)(6), 2996(b)(2).

SOURCE: 43 FR 32773, July 28, 1978, unless otherwise noted.

§ 1608.1 Purpose.

This part is designed to insure that the Corporation's resources will be used to provide high quality legal assistance and not to support or promote political activities or interests. The part should be construed and applied so as to further this purpose without infringing upon the constitutional rights of employees or the professional responsibilities of attorneys to their clients.

§ 1608.2 Definition.

Legal assistance activities, as used in this part, means any activity.

(a) Carried out during an employee's working hours;

(b) Using resources provided by the Corporation or by a recipient; or

(c) That, in fact, provides legal advice, or representation to an eligible client.

§ 1608.3 Prohibitions applicable to the Corporation and to recipients.

(a) Neither the Corporation nor any recipient shall use any political test or qualification in making any decision, taking any action, or performing any function under the act.

(b) Neither the Corporation nor any recipient shall contribute or make available Corporation funds, or any personnel or equipment

(1) To any political party or association;

(2) To the campaign of any candidate for public or party office; or

(3) For use in advocating or opposing any ballot measure, initiative, or referendum.

§ 1608.4 Prohibitions applicable to all employees.

(a) No employee shall intentionally identify the Corporation or a recipient with any partisan or nonpartisan political activity, or with the campaign of any candidate for public or party office.

(b) No employee shall use any Corporation funds for activities prohibited to attorneys under §1608.6; nor shall an